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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN JOSE DIVISION

13 *E-FILED - 12/7/06*

14 UNITED STATES OF AMERICA,

15 Case No.: CR 05-00342-RMW

16 Plaintiff,

17 STIPULATION AND ORDER
18 RESCHEDULING SENTENCING HEARING

19 vs.

20 DAVID L. GARCIA,

21 Defendant.

22 IT IS HEREBY STIPULATED between the parties and based upon such stipulation it is hereby
23 ordered, that the defendant's sentencing hearing, currently scheduled for Monday, November 27, 2006 at
24 9:00 a.m. be continued and a new sentencing hearing date of Monday, January 8, 2006 at 9:00 a.m. is
25 hereby set. The reason for this stipulation is because defense counsel has recently learned of an assault
that occurred upon the defendant while in custody at the county jail. There is a dispute as to the
culpability between the two defendants in this case, and this information will help to resolve that dispute.
Defense counsel has ordered the medical records and the incident report to review. While defense
counsel has received the medical records, we are still awaiting the incident report.

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2 It is so stipulated.

3 Dated: 11-20-06

/s/John Glang
JOHN N. GLANG
Assistant United States Attorney

4 It is so stipulated.

5 Dated: 11-20-06.

/s/ Robert Lyons
ROBERT W. LYONS
Attorney for Defendant

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7 It is so ORDERED:

8 Dated: 12/7/06.

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge